

**2003 DRAFTING REQUEST****Bill**Received: **11/05/2003**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**By/Representing: **Andrew (aide)**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**Extra Copies: **TNF, PJH**Submit via email: **YES**Requester's email: **Rep.Bies@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Inattentive driving

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	agary 11/13/2003	kgilfoy 11/14/2003	rschluet 11/17/2003	_____	Inorthro 11/17/2003		
/1	agary 11/19/2003	kgilfoy 11/24/2003	rschluet 11/25/2003	_____	Inorthro 11/25/2003	Inorthro 12/05/2003	

FE Sent For:

<END>

↳ Not  
Needed

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/1	agary 11/19/2003	kgilfoy 11/24/2003	rschluet 11/25/2003	_____	Inorthro 11/25/2003		

*Jacket  
per  
Andrew from  
Bies' office*

11/25/2003 10:35:19 AM

Page 2

FE Sent For:

**<END>**

11/17/2003 10:18:53 AM

Page 1

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/?							
/P1	agary 11/13/2003	kgilfoy 11/14/2003	rschluet 11/17/2003		lnorthro 11/17/2003		

FE Sent For:

1 - 11/24  
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"

25  
3

P6

END

11/05/2003 03:33:29 PM

Page 1

**2003 DRAFTING REQUEST****Bill**

Received: 11/05/2003

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For: Garey Bies (608) 266-5350

By/Representing: Andrew (aide)

This file may be shown to any legislator: NO

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Subject: Transportation - traffic laws

Extra Copies: TNF, PJH

Submit via email: YES

Requester's email: Rep.Bies@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Inattentive driving

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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1/?	agary	1/01-11/14 Kmg					
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FE Sent For:

&lt;END&gt;

# Bill Request Form

**Legislative Reference Bureau**  
100 N. Hamilton Street  
Legal Section 266-3561

*Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.  
Use this form only for bill draft requests. Attach more pages if necessary.*

Date 11-5-03

Legislator, agency, or other person requesting this draft Rep Gary Bies

Person submitting request (name and phone number) Andrew Nowlan 6-5350

Persons to contact for questions about this draft (names and phone numbers) \_\_\_\_\_

Describe the problem, including any helpful examples. How do you want to solve the problem?

Ch. 346

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

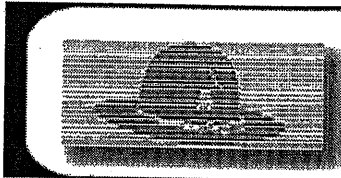
If yes:	Anyone who asks?	YES	NO
	Any legislator?	YES	NO

Only the following persons \_\_\_\_\_

Do you consider this request urgent? YES NO If yes, please indicate why \_\_\_\_\_

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO



## Wisconsin Troopers' Association

Casey Perry – Executive Director

Glen Jones – President

2099 Ironwood Drive, Green Bay, Wisconsin 54304-1972

Phone: (Toll Free: 1-800-232-1392) Fax: (Toll Free: 1-800-232-1392)

<http://www.wi-troopers.org/>

### INATTENTIVE DRIVING LANGUAGE ENHANCEMENT SUGGESTIONS

October 23, 2003

#### CURRENT LANGUAGE

**346.89 Inattentive driving.** (1) No person while driving a motor vehicle shall be so engaged or occupied as to interfere with the safe driving of such vehicle.

(2) No person shall drive any motor vehicle equipped with any device for visually receiving a television broadcast when such device is located in the motor vehicle at any point forward of the back of the operator's seat or when such device is visible to the operator while driving the motor vehicle.

#### SUGGESTED CHANGES

(1) No person while driving a motor vehicle shall be so engaged or occupied or distracted as to interfere with the safe driving of such vehicle.

(2) No person shall drive any motor vehicle equipped with any device for visually ~~receiving~~ displaying a television broadcast from an antenna or any recorded format when such device is located in the motor vehicle at any point forward of the back of the operator's seat or when such device is visible to the operator while driving the motor vehicle.

#### NEW LANGUAGE

(3) No person shall drive any motor vehicle while using or being in a position to observe any device capable of displaying a video image or (electronic) text message.

(4) Authorized emergency vehicles as defined in 340.01(3) are exempted from sections (2) & (3).

(5) Video displays used solely for backing maneuvers in motor vehicles are exempted from (2) & (3).

#### Basis for these suggested changes.

Law enforcement needs to be exempted from sections 2 & 3. Section 1, as written, requires proof of "interference with the safe driving of such a vehicle." Sections 2 & 3 are per se violations, meaning operation of the device is a violation, regardless of whether the operation of the vehicle was safe or not. If an officer has a crash with a fleet vehicle, the officer will be dealt with through internal employment procedures and the legal system as warranted. A crash is potentially evidence that unsafe driving did occur.

Section 2 applies to any type of television or similar type device. Current language is limited to TV's. A VCR does not broadcast a signal, nor does a DVD. This language should be sufficient and flexible to adapt to future technology.



Section 3 would include GPS, cell phones, PDA's, or any other device, when the operation of that device requires looking at it. The phrase "capable of displaying" was selected because so that the officer would not need to identify the specific picture or message on the device, merely that the person was looking at the device when they were operating a motor vehicle.

Section 5 is for video camera displays used solely for backing maneuvers. Some fleet vehicles, motor homes and other large vehicles have a camera on the back of the vehicle, and a display for the driver. Some do not turn off when the vehicle is moving forward, but there is nothing to observe during the operation. As long as the device is used solely for that purpose, officers would have no reason to enforce this violation.

Submitted by Glen A. Jones  
President – Wisconsin Troopers' Association

## Gary, Aaron

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**From:** Gary, Aaron  
**Sent:** Wednesday, November 12, 2003 12:36 PM  
**To:** Nowlan, Andrew  
**Subject:** Inattentive driving draft

Hi Andrew,

I'm working on this draft and kind of stumbling on item (3). As the Troopers Ass'n has formulated this, it could be very broad. It could prohibit operation of a vehicle if someone in the passenger seat is reading text messages on a cell phone or even playing a Game Boy. I'm also not sure what gadgets luxury cars are equipped with, but I wonder if the broad language (video image or text message) would outlaw any items that come as manufacturer's equipment in luxury cars, as there is no exception for video image or text related to the operation or condition of the car. Do you want me to keep this provision broad, or do you want me to try to narrow it down? Thanks. Aaron

Aaron R. Gary  
Legislative Attorney  
Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

11/12

He w/ Andrew — agree it is broad —

I should try to narrow it down in a P-draft  
and he'll take a look at it — ~~make note~~

Seen  
turned in  
11/13

King  
D-Note

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT <sup>Gen. Cat.</sup>; relating to: inattentive driving and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Current law prohibits inattentive driving in two forms:

1. A driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle.
2. A person may not drive a motor vehicle equipped with any device for receiving a television broadcast if the device is located forward of the back of the driver's seat or is visible to the driver, regardless of whether the device interferes with the safe driving of the vehicle.

Any person convicted of a violation described in Item 1. may be required to forfeit not less than \$20 nor more than \$400, and any person convicted of a violation described in Item 2, may be required to forfeit not less than \$20 nor more than \$40 for a first offense, and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

This bill creates a third form of inattentive driving prohibiting a person from driving a motor vehicle, other than an authorized emergency vehicle, while operating or being in a position to directly observe any device capable of displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether live or recorded, or any electronically transmitted or stored data, text, or email message in a form readable to the person, regardless of whether the device interferes with the safe driving of the vehicle. This prohibition does not apply to any device installed on a vehicle by a manufacturer or dealer that is intended for the exclusive display of information related to the operation or condition of the vehicle or that is intended to be used solely to enhance safety while backing the vehicle. Any person

electronic

who is

convicted of a violation of this prohibition is subject to the same forfeiture that applies to a violation described in Item 2, <sup>above</sup>.

The bill modifies the violation described in Item 1, <sup>above</sup>, by also prohibiting a driver of a motor vehicle from being so distracted as to interfere with the safe driving of the vehicle.

The bill modifies the violation described in Item 2, <sup>above</sup>, by specifying that the prohibition applies to devices for visually displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether live or recorded, but does not apply to devices installed by manufacturers or dealers that are intended to be used solely to enhance safety while backing a vehicle and does not apply to authorized emergency vehicles.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 346.89 of the statutes is amended to read:

**346.89 Inattentive driving.** (1) No person while driving a motor vehicle shall be so engaged ~~or~~, occupied, or distracted as to interfere with the safe driving of such vehicle.

(2) No person shall drive any motor vehicle, other than an authorized emergency vehicle, equipped with any device for visually ~~receiving~~ displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether in broadcast, tape recorded, or electronically recorded format, when such device is located in the motor vehicle at any point forward of the back of the operator's seat or when such device is visible to the operator while driving the motor vehicle. This subsection does not apply to any device installed on a vehicle by the manufacturer or a dealer that is intended to be used solely to enhance safety while backing the vehicle.

SECTION 2. 346.89 (3) of the statutes is created to read:

346.89 (3) No person while driving a motor vehicle, other than an authorized emergency vehicle, shall operate or be in a position to directly observe any device

1 capable of displaying a television, cable television, or satellite broadcast, film, or  
2 other fluctuating video image, whether in broadcast, tape recorded, or electronically  
3 recorded format, or any electronically transmitted or stored data, text, or electronic  
4 mail message in a form readable to the person. This subsection does not apply to any  
5 device installed on a vehicle by the manufacturer or a dealer that is intended for the  
6 exclusive display of information related to the operation or condition of the vehicle  
7 or that is intended to be used solely to enhance safety while backing the vehicle.

8 **SECTION 3.** 346.95 (1) of the statutes is amended to read:

9 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (3), 346.90 to  
10 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than  
11 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100  
12 for the 2nd or subsequent conviction within a year.

13 **SECTION 4. Initial applicability.**

14 (1) This act first applies to violations committed on the effective date of this  
15 subsection, but does not preclude the counting of other violations as prior violations  
16 for purposes of sentencing a person.

17 **SECTION 5. Effective date.**

18 (1) This act takes effect on the first day of the 4th month beginning after  
19 publication.

20 (END)

D - Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3651/P1dn

ARG: 

ATTN: Andrew Nowlan

Please review the attached draft carefully to ensure that it is consistent with your intent. As discussed, I have attempted to narrow the draft down a little from the language proposed in the original instructions.

There is a subtle distinction between amended s. 346.89 (2) and created s. 346.89 (3) in the attached draft, in that sub. (2) is a vehicle equipment prohibition while sub. (3) is a vehicle operator prohibition. However, it seems to me that created sub. (3) swallows up sub. (2), so I recommend eliminating sub. (2) in its present form and instead amending sub. (2) so that the language is identical to what appears as created sub. (3) in the attached draft.

The attached draft also includes a delayed effective date of approximately three months to allow law enforcement and DOT time to prepare for the change in law, and to allow time for education of the public on this matter. Is this okay?

Please let me know if you would like any changes to the attached draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3651/P1dn  
ARG:kmg:rs

November 17, 2003

ATTN: Andrew Nowlan

Please review the attached draft carefully to ensure that it is consistent with your intent. As discussed, I have attempted to narrow the draft down a little from the language proposed in the original instructions.

There is a subtle distinction between amended s. 346.89 (2) and created s. 346.89 (3) in the attached draft, in that sub. (2) is a vehicle equipment prohibition while sub. (3) is a vehicle operator prohibition. However, it seems to me that created sub. (3) swallows up sub. (2), so I recommend eliminating sub. (2) in its present form and instead amending sub. (2) so that the language is identical to what appears as created sub. (3) in the attached draft.

The attached draft also includes a delayed effective date of approximately three months to allow law enforcement and DOT time to prepare for the change in law, and to allow time for education of the public on this matter. Is this okay?

Please let me know if you would like any changes to the attached draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

~~Andrew~~  
~~just last~~  
~~agreed~~

~~Cynthia~~

11/19/03

Hle w/ Andrew note

- agrees w/ P 2 of /PI DN ->

put sub. (3) into sub. (2) - (replace sub. (2)  
w/ sub. (3))

- otherwise OK

- draft as /1





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-3651/PA 1  
ARG:kmg:rs

Soon  
turned in  
11/19

RMR

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

AN ACT *to amend* 346.89 and 346.95 (1); and *to create* 346.89 (3) of the statutes;

2

*relating to:* inattentive driving ~~and providing a penalty.~~

*Analysis by the Legislative Reference Bureau*

Current law prohibits inattentive driving in two forms:

1. A driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle.
2. A person may not drive a motor vehicle equipped with any device for receiving a television broadcast if the device is located forward of the back of the driver's seat or is visible to the driver, regardless of whether the device interferes with the safe driving of the vehicle.

Any person who is convicted of a violation described in Item 1., above, may be required to forfeit not less than \$20 nor more than \$400, and any person who is convicted of a violation described in Item 2., above, may be required to forfeit not less than \$20 nor more than \$40 for a first offense and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

This bill ~~creates a third~~ form of inattentive driving ~~prohibiting~~ <sup>to prohibit</sup> a person from driving a motor vehicle, other than an authorized emergency vehicle, while operating or being in a position to directly observe any device capable of displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether live or recorded, or any electronically transmitted or stored data, text, or electronic mail message in a form readable to the person, regardless of whether the device interferes with the safe driving of the vehicle. This prohibition does not apply to any device installed on a vehicle by a manufacturer or dealer that is intended for

modifies  
the second

the exclusive display of information related to the operation or condition of the vehicle or that is intended to be used solely to enhance safety while backing the vehicle. Any person who is convicted of a violation of this prohibition is subject to the same forfeiture that applies to a violation described in ~~Item 2~~, above. under current law, as

The bill modifies the violation described in Item 1., above, by also prohibiting a driver of a motor vehicle from being so distracted as to interfere with the safe driving of the vehicle.

~~The bill modifies the violation described in Item 2., above, by specifying that the prohibition applies to devices for visually displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether live or recorded, but does not apply to devices installed by manufacturers or dealers that are intended to be used solely to enhance safety while backing a vehicle and does not apply to authorized emergency vehicles.~~

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1

SECTION 1. 346.89<sup>(1)</sup> of the statutes is amended to read:

2

<sup>plain</sup> ~~346.89 Inattentive driving~~ <sup>NO B</sup> (1) No person while driving a motor vehicle shall be so engaged ~~or~~, occupied, or distracted as to interfere with the safe driving of such vehicle.

5

~~(2) No person shall drive any motor vehicle, other than an authorized emergency vehicle, equipped with any device for visually receiving displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether in broadcast, tape recorded, or electronically recorded format, when such device is located in the motor vehicle at any point forward of the back of the operator's seat or when such device is visible to the operator while driving the motor vehicle. This subsection does not apply to any device installed on a vehicle by the manufacturer or a dealer that is intended to be used solely to enhance safety while backing the vehicle.~~

13

SECTION 2. 346.89<sup>(2)</sup> of the statutes is ~~created~~ to read:

repealed and recreated

Fix  
Component

1

(2)  
346.89 (b) No person while driving a motor vehicle, other than an authorized emergency vehicle, shall operate or be in a position to directly observe any device capable of displaying a television, cable television, or satellite broadcast, film, or other fluctuating video image, whether in broadcast, tape recorded, or electronically recorded format, or any electronically transmitted or stored data, text, or electronic mail message in a form readable to the person. This subsection does not apply to any device installed on a vehicle by the manufacturer or a dealer that is intended for the exclusive display of information related to the operation or condition of the vehicle or that is intended to be used solely to enhance safety while backing the vehicle.

**SECTION 3.** 346.95 (1) of the statutes is amended to read:

346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (3), 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

**SECTION 4. Initial applicability.**

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

**SECTION 5. Effective date.**

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

D-Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3651/1dn

ARG: /:....



ATTN: Andrew Nowlan

We discussed amending s. 346.89 (2) so that it is identical to created s. 346.89 (3) in LRB-3651/P1. Upon reflection, I realize it is easier and cleaner to simply repeal and recreate s. 346.89 (2), which is done in the attached draft. The result is the same.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3651/1dn  
ARG:kmg:rs

November 25, 2003

ATTN: Andrew Nowlan

We discussed amending s. 346.89 (2) so that it is identical to created s. 346.89 (3) in LRB-3651/P1. Upon reflection, I realize it is easier and cleaner to simply repeal and recreate s. 346.89 (2), which is done in the attached draft. The result is the same.

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